

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JANEL CASE,)	
)	
Plaintiff,)	
)	
v.)	1:17CV741
)	
ALEX M. AZAR, II, Secretary of the)	
United States Department of Health)	
and Human Services, in his official)	
capacity only,)	
)	
Defendant.)	

ORDER

On January 3, 2019, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and served on the parties in this action, and a copy was given to the court. Within the time limitation set forth in the statute, counsel for Plaintiff objected to the Recommendation. (Doc. 25.) Plaintiff contends that her off-label use of the drug Myfortic should be covered under Medicare Part D, the Medicare prescription drug benefit of the Medicare program, 42 U.S.C. § 1395w-101 et seq.

The court has made a *de novo* determination of the portions of the Recommendation to which objections were made, which is in accord with the Magistrate Judge's Recommendation. The court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that Plaintiff's motion for summary judgment (Doc. 16) is DENIED, that Defendant's motion for summary judgment (Doc. 18) is GRANTED, that the final agency decision of the Secretary is upheld, and that this action is DISMISSED WITH PREJUDICE.

A Judgment dismissing this action will be entered contemporaneously with this Order.

/s/ Thomas D. Schroeder
United States District Judge

April 15, 2019